

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Cr. No. 04-2029 JC (ACE)

JAMES C. JOE, III,

Defendant.

MOTION FOR REASONABLE SENTENCE

COMES NOW the defendant, James Joe, by and through his attorney Thomas B. Jameson, Assistant Federal Public Defender, and hereby moves the Court to fully consider the United States Sentencing Guidelines and then issue a reasonable sentence below the guideline calculations contained in the Presentence Report.

As grounds for this motion defendant alleges the following:

1. Mr. Joe was involved in arranging for an undercover narcotic's agent and confidential informant the purchase of several small amounts of methamphetamine. As is detailed in the Presentence Report, undercover agents approached Mr. Joe and asked if he could help find them some small quantities of methamphetamine. Initially Mr. Joe did not agree to assist them however when asked again he did agree and did help arrange for the transfer of several small quantities of methamphetamine to the agent.

2. As the Presentence Report points out Mr. Joe experienced a number of difficulties with the juvenile justice system while in his teenage years. The most serious of

those offenses involved a commitment to a juvenile treatment facility. Mr. Joe's federal juvenile offense and his commitment for custody and treatment was completed on June 4, 1998. Under the Federal Sentencing Guidelines, for criminal history purposes, a juvenile offense is counted if the completion of any term of supervision or commitment was within five years of the present offense. In this case, Mr. Joe completed his treatment in custody on June 4, 1998. The offense to which Mr. Joe plead guilty to occurred between May 8, 2003 and June 13, 2003. Consequently, Mr. Joe's commitment was completed approximately four years and 11 months prior to this offense. According to the Presentence Report, Mr. Joe committed his current offense less than thirty days from the five year limit, and he is given two criminal history points and denied any relief under safety valve provision for first time drug offenders. Had Mr. Joe been granted the benefits of the safety valve his offense level would have been thirteen and his criminal history category would have been I with a recommended sentence of twelve to eighteen months. Denial of the safety valve provisions increases Mr. Joe's sentence from between nine and fifteen months.

3. Mr. Joe has submitted an acceptance of responsibility letter to the Court. That letter was provided to the Court and opposing counsel, as well as the Probation Department on Monday March 14, 2005. In that letter Mr. Joe attempts to explain his life circumstances. For the approximate five years after his release from treatment and custody Mr. Joe had been crime free. Since the time of the incident in this case Mr. Joe has not only been crime free he has shown an ability to lead a productive life. He has become a responsible parent and

is a part of a strong and loving family system. Mr. Joe requests that the Court recognize his difficult upbringing and his personal rehabilitative efforts and consider issuing a sentence that would allow him to remain a part of that family system and continue his economic and emotional support for that family. Ideally, Mr. Joe would like a sentence of probation or home confinement. However if the Court feels that some form of more severe punishment should be imposed he would ask that the Court sentence him as if he did qualify for the safety valve provision of the guidelines at offense level thirteen at criminal history category I. At this range the minimum sentence would be twelve months and one day. The Court could also sentence Mr. Joe to probation with the condition he reside at a halfway house where he could continue to provide income for his family.

Respectfully submitted,

I hereby certify that a true copy of foregoing pleading was placed in the in box of the U.S. Attorney's office for AUSA Nelson Spear and the U.S. Probation Office at the Clerk's Office of the U.S. District Court this 14th day of March 2005.

[Electronically filed]

FEDERAL PUBLIC DEFENDER
111 Lomas NW, Suite 501
Albuquerque, NM 87102
(505) 346-2489

[Electronically filed]
THOMAS B. JAMESON
Attorney for Defendant